

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

QUINTA SANDERS)
Plaintiff,)
v.)
MISSISSIPPI COUNTY, MISSOURI,) Case No. 1:18-CV00269
CORY HUTCHESON, SALLY YANEZ,)
RYAN HILL, JOE ROSS,)
JOSH MALDONADO,)
DECOTA MCGLOTHLIN,)
FAITH ALTAMIRANO,)
ROBERT HEARNES,)
CURTIS ARNOLD,)
ZACHARY MATNEY, and)
AUSTIN HENSON)
Defendants.)

AMENDED APPLICATION FOR APPROVAL OF SETTLEMENT FOR THE
INJURIES AND DEATH OF TORY D. SANDERS, DECEASED WITH MISSISSIPPI
COUNTY, MISSOURI, CORY HUTCHESON, SALLY YANEZ, RYAN HILL, JOE
ROSS, JOSH MALDONADO, DECOTA McGLOTHLIN, AND FAITH ALTAMIRANO
AND TO DISTRIBUTE THE SETTLEMENT PROCEEDS TO DECEDENT'S HEIRS

Plaintiff, Quinta Sanders, Individually, and as the representative of the Class 1 beneficiaries under the Missouri Wrongful Death Statute, Section 537.080, RSMo., of Tory D. Sanders, Deceased ("Plaintiff"), and Mississippi County, Missouri, Cory Hutcheson, SallyYanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano (collectively "Mississippi County Defendants") (Plaintiff and the Mississippi County Defendants collectively referred to as the "Parties"), by and through counsel, pursuant to Sections 537.080, 537.090, and 537.095, R.S.Mo., hereby apply to the Court for approval of the settlement of all claims and causes of action Plaintiff asserted for and on behalf of all Class 1 beneficiaries of Tory D. Sanders against the Mississippi County Defendants for the injuries and death of Tory D. Sanders and to

distribute the settlement proceeds to Decedent's heirs pursuant to the Memorandum and Order of this Court dated 10/1/2021(Doc. #117).

The Parties request approval of the settlement on the following grounds:

1. Plaintiff has asserted claims for damages against the Mississippi County Defendants arisingout of the injuries and death of Tory D. Sanders in Mississippi County, Missouri on May 5, 2017. Plaintiff contends that the injuries and death of Tory D. Sanders were caused by the acts, omissions, and negligence of the Mississippi County Defendants arising out of his detention by officers for Mississippi County, Missouri on May 5, 2017 and his subsequent hold for protective custody at the Mississippi County Detention Center. Plaintiff's claims are being brought pursuant to Missouri's Wrongful Death Statute, Section 537.080, RSMo., *et seq.* as specifically alleged in the Complaint filed herein and incorporated herein by reference. The Mississippi County Defendants have generally and specifically denied the claims of Plaintiff in theComplaint in their Answer filed herein, which is incorporated herein by reference.
2. Tory D. Sanders is survived by his natural mother, Quinta Sanders; his wife, Summer Lea Barrett; and his minor children J.A.M.C., T.D.Q.S., T.M.D.S., J.T.EC., J.S.,Z.S., T.D.S., and D.C.B. who are the individuals entitled to bring an action for the injuriesto and death of Tory D. Sanders under Section 537.080.1(1), RSMo. By prior Amended Order of the Court dated March 5, 2021 (Doc. # 74), Plaintiff Quinta Sanders (natural grandmother) was appointed Next Friend of T.M.D.S.; Summer Barrett (naturalmother of the minor children) was appointed Next Friend of T.D.S. and D.C.B.; Jocelyn Cox (natural mother of the minor children) was appointed Next Friend of J.A.M.C., T.D.Q.S., and J.T.E.C.; and Dreama Smith (natural mother of

the minor children) was appointed Next Friend of J.S. and Z.S. to represent the minor children's interests in this settlement. No other person known to the Parties hereto is entitled to bring an action for the alleged injuries and wrongful death of Tory D. Sanders under Section 537.080.1(1), RSMo. other than the individuals identified in this paragraph. It is further represented by Jocelyn Cox that L.C. is not the child of Tory D. Sanders as originally believed.

3. Plaintiff filed this action for and on behalf of herself as an heir and beneficiary of Tory D. Sanders and for and on behalf of all living members in the Class of beneficiaries in Section 537.080.1(1), RSMo., including Summer Barrett as the wife of Tory D. Sanders and all of Tory D. Sanders' minor children as identified and referred to in Paragraph 2.
4. Pursuant to the provisions of Section 537.095, RSMo., all parties having any cause of action under Section 537.080.1(1), RSMo. for the injuries to and death of Tory D. Sanders have been or will be notified of this cause of action, the filing of this application for approval of the settlement for the injuries and death of Tory D. Sanders with the Mississippi County Defendants and to distribute the settlement proceeds to the heirs and beneficiaries of Tory D. Sanders, and the date of the hearing on the application by either being a party to this action or by the natural mothers of the minor children being appointed as the Next Friend of the minors.
5. Pursuant to the provisions of Section 537.095, RSMo., Plaintiff may compromise and settle the claim for damages for the injuries to and death of Tory D. Sanders as described in Paragraph 1, without the joinder of any other party. All heirs and beneficiaries of Tory D. Sanders Section 537.080.1(1), RSMo. will have the

opportunity to attend the hearing to approve the settlement and distribution.

6. This Court has jurisdiction and venue over the causes of action asserted by Plaintiff against the Mississippi County Defendants because the alleged acts causing the alleged injuries and death of Tory D. Sanders occurred in Mississippi County, Missouri located in the Eastern District of Missouri, Southeastern Division.
7. Although claims have been made against the Mississippi County Defendants, the Mississippi County Defendants have denied and continue to deny any negligence, fault, act, or omission with respect to the incidents or occurrences allegedly causing the injuries and death of Tory D. Sanders as are alleged in the Complaint filed herein.
8. The Parties have agreed to settle all of the claims against the Mississippi County Defendants, including all claims for the injuries and death of Tory D. Sanders; for Tory D. Sanders' conscious pain and suffering before his death; for pecuniary losses; funeral expenses; constitutional violations; the reasonable value of the services, consortium, companionship, comfort, instruction, guidance, counsel, training and support suffered by reason of Tory D. Sanders' death; and all other claims for damages against the Mississippi County Defendants arising out of the alleged injuries and death of Tory D. Sanders on May 5, 2017, the consideration for which is the payment of \$2,055,000.00 on behalf of the Mississippi County Defendants ("Settlement Proceeds").
9. Plaintiff contracted with Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. to represent Plaintiff's interest in the claims and causes of action against the Mississippi County Defendants. Pursuant to the contracts of employment, Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C.

are entitled to an attorneys' fee in the amount equal to 40% of the gross recovery if the proposed settlement is approved and carried out. Consequently, Plaintiff and the law firms request the Court to approve a payment to the law firms in the amount of \$822,000.00 from the Settlement Proceeds in full payment of their attorney fees and costs in the amount of \$157,060.18¹, upon approval of the settlement. Attorneys for Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. will present evidence at the hearing to approve the settlement and distribution of the Settlement Proceeds about the amount of the attorney fees and costs that the firms are requesting. A copy of the contract of employment for the law firms is attached as Exhibit A.

10. The Mississippi County Defendants seek the Court's approval of this settlement (per Court Order of 10/1/2021, Doc. #117) and an Order awarding the Settlement Proceeds for the exclusive use and benefit of Plaintiff, as the natural mother of Tory D. Sanders; Summer Barrett, as the wife of Tory D. Sanders; and the minor children through their Next Friends as heirs and beneficiaries of Tory D. Sanders to be distributed to each of them and their attorneys in amounts to be determined at the hearing to approve the settlement and to distribute the Settlement Proceeds approved by the Court. Plaintiff and the Next Friends of the minors have agreed that the Settlement Proceeds distributed to each minor will be used for the purchase of an annuity for each minor to be approved by the Court in an application to approve the minors' settlements.
11. Plaintiff requests that the Court approve the payment of attorney fees and costs to

¹ The Parties agree that the attorneys' cost itemization contains attorney-client and/or work product privileged information and will be provided directly to the Court for its consideration either prior to or at the approval hearing.

Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. in an amount to be decided and approved by the Court based upon the evidence about attorney fees and costs presented at the hearing to approve the settlement and distribution of the Settlement Proceeds to the heirs and beneficiaries of Tory D. Sanders. Plaintiff also requests the Court to distribute the net amount of the Settlement Proceeds after the deduction of attorney fees and costs paid to the Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. to Plaintiff as the natural mother of Tory D. Sanders; Summer Barrett, as the wife of Tory D. Sanders; and to the annuity company(ies) for the children by and through their Next Friends in amounts to be determined by the Court based upon evidence presented at the hearing to distribute the Settlement Proceeds approved by the Court as requested herein.

12. Plaintiff shall satisfy and pay any and all valid liens which have arisen out of the injuries and death of Tory D. Sanders or as a result of any medical care and treatment, funeral expenses, claims of other beneficiaries, subrogation interests, or any other expenses incurred as a result of the injuries to and death of Tory D. Sanders on May 5, 2017 out of the Settlement Proceeds. Plaintiff confirms that the funeral expenses were reimbursed by prior settling parties and to her knowledge no liens either exist or have been asserted for any claims arising out of the injuries and death of Tory D. Sanders.
13. Subject to the approval of the settlement by the Court, the Court approving the amount of attorney fees and costs to be paid to Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. and approving the amount of the distribution from the net Settlement Proceeds to Plaintiff and the heirs and beneficiaries of

Tory D. Sanders, Plaintiff and Summer Barrett who will individually receive a distribution of the Settlement Proceeds shall execute a General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased Against Mississippi County, Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano ("Release") and Plaintiff, Summer Barrett, Jocelyn Cox, and Dreama Smith, as Next Friends of the minors, shall execute a Settlement Agreement and General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased Against Mississippi County, Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano ("Release") upon the approval of the minors' settlements by the Court. The Mississippi County Defendants request that Plaintiff and Summer Barrett execute the Release upon the payment of the Settlement Proceeds to each of them approved herein and that the Next Friends of the minor children execute the Release upon the approval of the minors' settlements and the purchase of annuities for and on behalf of each minor. A copy of the Settlement Agreement and General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased Against Mississippi County, Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano executed by each Next Friend on behalf of the minors will be filed with the Court upon the approval of the minors' settlements by the Court and annuities to be purchased for each minor.

14. The Mississippi County Defendants agree that this settlement, if approved by the Court, is a good faith settlement with the Mississippi County Defendants, and the Mississippi County Defendants request the Court to find that each Release

executed by Plaintiff, Summer Barrett, and the Next Friends is given in good faith to the Mississippi County Defendants as that term is used in Section 537.060, RSMo. and that the Mississippi County Defendants are released and discharged from any claim for contribution and/or non-contractual indemnity by any other person, firm, and corporation arising out of theinjuries to and death of Tory D. Sanders on May 5, 2017.

15. The Mississippi County Defendants also request the Court to order Plaintiff and the other beneficiaries who will receive a distribution of the Settlement Proceeds to execute and file a receipt herein tendered by the Mississippi County Defendants confirming the payment of the Settlement Proceeds to Plaintiff and the heirs and beneficiaries of Tory D.Sanders as approved and ordered by the Court herein when the payments are made to Plaintiff and the other heirs and beneficiaries of Tory D. Sanders tosatisfy the requirements of the Order approving the settlement and the distribution of the Settlement Proceeds and the Order approving the minors' settlements.
16. The Mississippi County Defendants also request the Court to order Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. to file a receipt for the payment of attorney fees and costs upon the payment of the attorney fees and costs to the law firms.
17. Plaintiff requests the Court to grant her leave to waive a jury herein and to submit all issuesin the proposed settlement, as set out in this Court's Order of 10/1/2021 (Doc. #117), to this Court for determination and approval of the settlement for the injuries to and death ofTory D. Sanders and to hear and determine the amount of the distribution of the Settlement Proceeds to Plaintiff and the heirs and

beneficiaries of Tory D. Sanders and to approve the amount of attorney fees and costs to be paid to Wendt LawFirm, P.C. and the Law Office of Michael G. Hoskins, P.C. as requested herein.

WHEREFORE, the Mississippi County Defendants pray the Court to hear and determine the issues in this cause and to enter its Order **FINDING, ADJUDGING AND DECREEING:**

- (a) That this Court has jurisdiction and venue over this cause of action and the settlement of the claims for the injuries to and death of Tory D. Sanders against the Mississippi County Defendants, and that Plaintiff is granted leave to waive a jury herein and to submit all issues of the proposed settlement to this Court for a determination;
- (b) That pursuant to the provisions of Section 537.095, RSMo., all heirs and beneficiaries having a cause of action under Section 537.080.1(1), RSMo. for the injuries to and death of Tory D. Sanders have been duly notified of the claims asserted for the injuries to and death of Tory D. Sanders, the filing of the application for approval of the settlement and to distribute the settlement proceeds to the heirs and beneficiaries of Tory D. Sanders and the date and time of the hearing for the Court to approve the settlement as requested herein and to approve the distribution of the Settlement Proceeds to the heirs and beneficiaries of Tory D. Sanders and are before the Court as a party to this action or as Next Friends of the minor beneficiaries of Tory D. Sanders;
- (c) That pursuant to the provisions of Section 537.095, RSMo., Plaintiff may compromise the claims for damages for the injuries to and death of Tory D.

Sanders as an heir and beneficiary of Tory D. Sanders under Section 527.095.1, RSMo. without the joinder of any other party;

- (d) That the aforementioned settlement with the Mississippi County Defendants for the injuries to and death of Tory D. Sanders is proper and is in the best interest of Plaintiff, the minor children of Tory D. Sanders, and the heirs and beneficiaries of Tory D. Sanders and should be approved;
- (e) That the settlement for the injuries to and death of Tory D. Sanders with the Mississippi County Defendants for the Settlement Proceeds in the amount of \$2,055,000.00 to be paid by the Mississippi County Defendants is approved;
- (f) That Plaintiff entered into contracts of employment with Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. to represent her interests in the cause of action and claims asserted against the Mississippi County Defendants for the injuries to and death of Tory D. Sanders, and pursuant to the contracts of employment and the request of Plaintiff, Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. is entitled to an attorney fee of 40% of the gross recovery in the amount of \$822,000.00 and costs incurred in the amount of \$157,060.18 if the proposed settlement is approved and carried out. That Wendt Law Firm, P.C. and the Law Offices of Michael G. Hoskins, P.C. will present evidence about their attorney fees and costs at the hearing to approve the settlement and will be awarded attorney fees and costs in an amount to be determined by the Court at the hearing to approve the settlement and a distribution of the Settlement Proceeds;

- (g) That Plaintiff will pay Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. attorney fees and costs as approved and ordered by the Court from the Settlement Proceeds upon approval of the settlement by the Court and the attorney fees and costs to be paid to Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C.;
- (h) That upon approval of the settlement with the Mississippi County Defendants the Court will hear evidence from Plaintiff, Summer Barrett, and the Next Friends of the minor children of Tory D. Sanders about the amount of the Settlement Proceeds after the deduction of attorney fees and costs as approved and ordered by the Court to be paid to Plaintiff, Summer Barrett, and the annuity company(ies) for on behalf of the minor children from the remaining Settlement Proceeds and the Court will enter an Order distributing the remaining Settlement Proceeds to the heirs and beneficiaries of Tory D. Sanders and finding that the Settlement Proceeds distributed to each Next Friend for and on behalf of each minor will be used to purchase an annuity for each minor to be approved in an application for approval of minors' settlements.
- (i) That Plaintiff individually, and for and on behalf of the heirs and beneficiaries of Tory D. Sanders, deceased and Summer Lea Barrett, individually, as the wife of Tory D. Sanders, deceased, and as an heir and beneficiary of Tory D. Sanders, deceased be ordered, empowered, authorized and directed to execute a General and Full Release of All Claims For the Injuries to and Death of Tory D. Sanders, Deceased Against Mississippi County Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado,

Decota McGlothlin and Faith Altamirano releasing all claims against the Mississippi County Defendants arising out of the injuries and death of Tory D. Sanders, deceased on May 5, 2017 upon the payment of the Settlement Proceeds approved herein to each of them as requested herein;

- (j) That Plaintiff, Summer Barrett, Jocelyn Cox, and Dreama Smith for and on behalf of the minor children be ordered, empowered, authorized, and directed to execute a Settlement Agreement and General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased Against Mississippi County, Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano releasing all claims against the Mississippi County Defendants arising out of the injuries to and death of Tory D. Sanders upon the approval of the minors' settlements from the settlement and the purchase of the annuities for each minor;
- (k) That the settlement is a good faith settlement with the Mississippi County Defendants and the General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased Against Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano and the Settlement Agreement and General and Full Release of All Claims for the Injuries to and Death of Tory D. Sanders, Deceased against Mississippi County, Missouri, Cory Hutcheson, Sally Yanez, Ryan Hill, Joe Ross, Josh Maldonado, Decota McGlothlin and Faith Altamirano are executed and given to the Mississippi County Defendants in good faith pursuant to Section 537.060, RSMo. and

the Mississippi County Defendants are released and discharged for any claims for contribution and non-contractual indemnity by any other person, firm, and corporation arising out of the injuries and death of Tory D. Sanders on May 5, 2017;

- (l) That the payment of the Settlement Proceeds is not to be construed as an admission of liability on the part of the Mississippi County Defendants with each Mississippi County Defendant denying any negligence or fault with respect to the alleged incidents or occurrences allegedly causing the injuries to and death of Tory D. Sanders on May 5, 2017;
- (m) That Plaintiff, and the other beneficiaries who receive a distribution of the Settlement Proceeds shall collect the Settlement Proceeds as ordered and approved by the Court and will execute and file a receipt for the payment of the Settlement Proceeds approved herein;
- (n) That Wendt Law Firm, P.C. and the Law Office of Michael G. Hoskins, P.C. shall file a receipt for the payment of attorney fees and costs approved herein and ordered by the Court upon the payment of the attorney fees and costs to the law firms;
- (o) That Plaintiff shall bear and be responsible to pay the costs and attorney fees incurred by her in this case and each Mississippi County Defendant shall bear and be responsible to pay the costs and attorney fees incurred by each Mississippi County Defendant in this case; and
- (p) For such other and further relief that the Court deems just and proper.

Approved and submitted:

WENDT LAW FIRM, P.C.

By: /s/ Samuel M. Wendt

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